

United States District Court
District of Maine

Joint Status Report

In compliance with the Court's February 24, 2022 Order (ECF 90), Plaintiff Travis McEwen and Defendants National Rifle Association of America and InfoCision, Inc., have conferred and agree that the process most likely "to secure the just, speedy, and inexpensive determination" of this action under Fed. R. Civ. P. 1 is for the parties to pursue interlocutory appeals of the Court's rulings on Defendants' motions to dismiss on the following schedule and conditions:

(1) By May 4, 2022, Plaintiff will file an unopposed motion, under Rule 54(b) and possibly 28 U.S.C. § 1292(b), to request certification of the order dismissing counts C through F. To the extent filed under

§ 1292(b), Plaintiff will request that the Court certify for appeal all issues raised by Defendants' motion to dismiss Counts C through F.

(2) By May 4, 2022, Defendants will file an unopposed motion, under 28 U.S.C. § 1292(b), to request certification of the order denying their motion to dismiss Counts A and B, and, specifically, the meaning of "automatic telephone dialing system" under the Telephone Consumer Protection Act, 47 U.S.C. § 227, following the Supreme Court's decision in *Facebook v. Duguid*, 141 S. Ct. 1163 (2021).

(3) Discovery will be stayed in the district court pending resolution of the motions to certify and any appeals arising from those motions.

(4) The parties fully reserve the right to argue on appeal alternative grounds for affirmance that were raised below.

Date: March 16, 2022

Respectfully submitted,

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*Attorneys for Defendants NRA and
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Certificate of Service

I hereby certify that on March 16, 2022, I electronically filed this filing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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